

REMARKS/ARGUMENTS

After the foregoing Amendment, claims 25, 27, 29-32, 34, 36-38 are currently pending in this application. Claims 25, 32, 34, 36-38 are amended.

Claim Rejections - 35 USC §103

Claims 25, 29-32 and 36-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,324,184 to Hou et al. (hereinafter "Hou"). The Applicant respectfully disagrees.

Hou recites a method for dynamically allocating uplink bandwidth to subscriber units. More particularly, in Hou, a MAC management entity monitors bandwidth usage in upstream channels and adjusts the assigned bandwidth for each user accordingly (see Hou, abstract and column 11, line 64 to column 12, line 1). Although Figures 2 and 5 in Hou disclose a bi-directional communication network, Hou merely discloses performing dynamic bandwidth allocation in the uplink direction (see column 2, lines 57-60 and column 3, lines 15-19). In contrast to the amended claims, Hou fails to teach the dynamic allocation of bandwidth to a subscriber unit in both the uplink and downlink directions.

Hou discloses that a maximum (e.g., ceiling) uplink bandwidth may be imposed on a subscriber unit (see column 11, lines 46-47). The maximum

bandwidth that a subscriber unit is assigned may be limited by comparing the assigned bandwidth to a ceiling value (see column 11, lines 31-33).

According to Hou, a traffic count is determined for each subscriber unit by counting the number of slots used in a control interval where the slot usage rate corresponds to a bandwidth (see column 2, lines 7-12). Hou merely discloses that it is possible to use a timing mechanism to provide a heavy user with additional bandwidth, but only for a certain amount of time (see column 11, lines 47-55). Hou fails to teach or recite "comparing a continuous time allocation of channel resources for each of the subscriber unit against a time threshold and adjusting the priority level when the time threshold is exceeded" as recited in the pending independent claims.

In contrast to the pending claims, Hou fails to provide for a timing threshold that is used to adjust the priority level of a subscriber unit when the threshold is exceeded. In fact, Hou fails to teach or disclose the use of a similar timing threshold. The only teaching of a timing mechanism in Hou indicates that a maximum bandwidth level of a heavy user may be exceeded for a set amount of time (see column 11, lines 47-55). The creation of a maximum bandwidth for a subscriber unit as taught in Hou and adjusting the priority level of a subscriber unit when a time threshold is exceeded as recited in the pending independent claims are fundamentally different activities.

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Further, Hou merely disclose sharing one or more channels among the subscriber units according to a time division multiple access (TDMA) scheme (see column 3, line 65 to column 4, line 1). In contrast, the amended independent claims disclose the use of a code division multiple access (CDMA) scheme.

Claims 27 and 34 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hou in view of U.S. Patent No. 6,473,793 to Dillon et al. (hereinafter "Dillon"). The Applicant respectfully disagrees.

Dillon discloses a hybrid gateway including the functionality that allows bandwidth on a network to be dynamically allocated and enforced. According to Dillon, the network compares the data transferred to a user with stored thresholds to implement the throttling of bandwidth based on historical usage patterns (see column 17, lines 16-19). In Dillon, the stored thresholds indicate a certain amount of data instead of a time threshold measuring the continuous allocation of channel resources as recited in the pending claims. Unlike Dillon, the pending claims measure the overuse of channel resources based on the continuous allocation of the channel resources.

Based on the arguments presented above, withdrawal of the §103(a) rejection of claims 25, 29-32, and 36-38 is respectfully requested.

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Conclusion

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephonic interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendment and remarks, Applicants respectfully submit that the present application is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

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Enclosure(s)